

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

ELLOYD JOHNSON 840854
Plaintiff's Name and ID Number

TDCJ-CID
Place of Confinement

CASE NO. 9:18cv158 RC/ZH
(Clerk will assign the number)

v.

TDCJ HEALTH-SERVICES-DIVISION
Defendant's Name and Address

ANITRA LINDLEY, P.M. UTMB/CMC
Defendant's Name and Address

Defendant's Name and Address
(DO NOT USE "ET AL.")

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SEP 10 2018
BY
DEPUTY _____

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACKSIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND *IN FORMA PAUPERIS* (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at you prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or a initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from you inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE OF THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ☒ YES ☐ NO
- B. If your answer to "A" is "yes", describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: JAN. 30, 2007
 2. Parties to previous lawsuit:
 Plaintiff(s) ELLOYD JOHNSON
 Defendant(s) N. QUARTERMAN; D. GROUND; K. DEAN; EASTHAM WARDEN; TDCJ-11-S-D OF EASTHAM
 3. Court: (If federal, name the district; if state, name the county.) WESTERN DISTRICT
 4. Cause number: W-07-CA-25
 5. Name of judge to whom case was assigned: WALTER SMITH
 6. Disposition: (Was the case dismissed, appealed, still pending?) 5TH CIR. PENDING
 7. Approximate date of disposition: ON OR ABOUT MAY 15, 2010, UNDER REINSTATED 180 DAYS DOCTRINE

- II. PLACE OF PRESENT CONFINEMENT: TDCJ-CID POLUNSKY UNIT
- III. EXHAUSTION OF GRIEVANCE PROCEDURES:
Have you exhausted all steps of the institutional grievance procedure? ✓ YES NO
Attach a copy of your final step of the grievance procedure with the response supplied by the institution.
- IV. PARTIES TO THIS SUIT:
- A. Name and address of plaintiff: ELLOYD JOHNSON, POLUNSKY UNIT, 3872 FM 350 SOUTH
LIVINGSTON, TEXAS 77351
- B. Full name of each defendant, his official position, his place of employment, and his full mailing address.
- Defendant #1: ANITRA LINDLEY; PRACTICE MANAGER OF POLUNSKY UNIT FORMALLY
DENIED CURE TREATMENT DRUGS AT STEP 1 LEVEL GRIEVANCE
Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
THE FACT THAT PRACTICE MANAGER'S RESPONSE IS IMPROPER SCR AND THE SCHEDULED
- Defendant #2: TDCJ-HEALTH-SERVICES-DIVISION UNDER CONTRACT HIRED EMPLOYEES
MEDICAL.
Briefly describe the acts(s) or omission(s) of this defendant which you claimed harmed you.
- Defendant #3: N/A
Briefly describe the acts(s) or omission(s) of this defendant which you claimed harmed you.
- Defendant #4: N/A
Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.
- Defendant #5: N/A
Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

PRISON OFFICIALS OF TDCJ-HEALTH-SERVICES-DIVISION AND P.M. A. LINDLEY HAVE REFUSED TO PROVIDE THE AVAILABLE CURE TREATMENT HEPATITIS C. VIRUS DRUGS HARVONI AND SOLVALDI. WHERE PLAINTIFF HAVE BEEN HAVING SEVERE LIVER DISEASE., PAIN OVER (20) TWENTY PLUS YEARS... AND FOR LAST 3 OF THE 20+ YEARS THE PAIN HAVE ENHANCED SEVERELY TO WHERE I BELIEVE THIS IS IT. IM GOING TO DIE! AT THAT TIME. TDCJ-H-S-D TREATMENT ONLY GO THROUGH THE MOTIONS OF LIVER TEST THAT ONLY RESULT AS PLAINTIFF'S "LIVER ENZYMES REMAIN STABLE" AND "PSA CAME BACK NORMAL" WHEN HCV IS ALREADY CAUSING LIVER DAMAGE WHERE, FAILURE TO PROVIDE THE CURE DRUGS IS A VIOLATION OF THE 8TH AMEDT, AND CONSTITUTES DELIBERATE INDIFFERENCE TO PLAINTIFF'S SERIOUS MEDICAL NEED.

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

ORDER TDCJ-HEALTH-SERVICES-DIVISION MEDICAL SUPERVISORY STAFF TO PROVIDE THE CURE TREATMENT DRUGS: HARVONI AND SOLVALDI THROUGH THE MEDICAL OVERSEERS: UTMB / CMC AND P.M. ANITRA LINDLEY EMPLOYEES OF MEDICAL.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

263188, 840854

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? YES NO

C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES ☒ NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning was issued: _____

Executed on: _____
DATE

(Signature of Plaintiff)

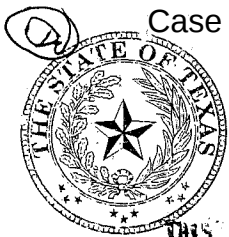
PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 4 day of SEPT., 20 18.
(Day) (month) (year)

(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.



STEP 1 OFFENDER GRIEVANCE FORM

THIS IS A STEP 1 AND 2 APPEAL PROCESS

Offender Name: ELLDYD JOHNSON TDCJ # 840854Unit: POLUNSKY Housing Assignment: 8-K-26-BUnit where incident occurred: 10 BLDG: 8-BLDG ROTUNDADMS JUNE 12-12 PRIMARY CARE PROVIDER - LAD-10

Grievance #: 2018090804
 Date Received: FEB 22 2018
 Date Due: 4-8-18
 Grievance Code: 628
 Investigator ID #: I1868
 Extension Date: 5-23-18 AS
 Date Retd to Offender: APR 05 2018

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing. (MEDICAL GRIEVANCE)

Who did you talk to (name, title)? THIS IS THE THIRD GRIEVANCE CONCERNING CURE TREATMENT When? FEB 21, 2018What was their response? NONE RESPONSIVE METHOD AT THE ADMINISTRATIVE LEVEL WHERE GRIEVANT REQUESTWhat action was taken? FOR HEP. C. VIRUS DRUGS: HARVONI AND SOLVALDI

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

GRIEVANT HAVE FILED TWO (2) GRIEVANCES CONCERNING THE SUPRA MENTION DRUGS FOR
HEPATITIS C. VIRUS TREATMENT FOR CURE... DUE TO THE DN GOING MEDICAL STAFF... EMPLOYEES
ON DUTY NOT HONORING GRIEVANT RESTRICTIONS WHEN SECURITY MOTIVES TO DENY GRIEVANT 10 BLDG. MEDICAL SHOWER; HARASSING GRIEVANT ABOUT WHAT
GRIEVANT CAN DO MENTALLY AND PHYSICALLY WITHOUT KNOWING GRIEVANT HAS A LIVER
INFLAMMATION! WHICH CAUSES GRIEVANT TENDING TO EXCITE THE SENSES OR TO AROUSE
ANGER, DISORDER ACCOMPANIED BY INFLAMMATORY DISEASE.

LEGAL ANALYSIS

TDCJ-HEALTH-SERVICES-DIVISION HAVE FAILED TO PROVIDE THE DRUG HARVONI OR SOLVALDI
TO GRIEVANT SERIOUS MEDICAL NEED... WHILE ASSISTING SECURITY STAFF RETALIATION METHOD
THATS CLEARLY SUPPORTED BY GRIEVANT UNITED STATES DISTRICT COURT OF THE EASTERN
DISTRICT OF TEXAS OF THE LUFKIN DIVISION ON PRISON DISCIPLINARY INTERVENING INTO
JUDICIAL LAW WITH POLICY METHODS.

MEDICAL STAFF EMPLOYEES SIDE WITH SECURITY TO ASSIST IN HARASSING AND RETALIATING
EVEN THOUGH SUPERVISORY MEDICAL STAFF IS INFACIT AWARE OF GRIEVANT HAVING HAD
HEPATITIS C. VIRUS OVER (20) TWENTY YEARS PLUS!!!

FOR THE FOREGOING REASONS SET OUT IN THIS STEP 1 GRIEVANCE, GRIEVANT OFFICIALLY FILES FOR THE CURE TREATMENT OF THE AVAILABLE AND KNOWN DRUGS: HARVONI AND SOLVALDI TO END THE PAIN AND MENTAL ANGUISH THAT TDCJ-CID HEALTH-SERVICE-DIVISION EMPLOYEE STAFF HAVE STARTED TO ASSIST SECURITY STAFF IN RETALIATING AND HARASSING GRIEVANT BY NOT HONORING PROVIDERS RESTRICTIONS.

THIS WILL BE SUBMITTED TO THE U.S.D.C. AFTER 35 DAYS WITH NO EXTENSION ON THIS STEP 1 AS REMEDY EXHAUST OF ADMINISTRATIVE WITH 42 USC § 1983

Action Requested to resolve your Complaint.

PROVIDE THE DRUGS: HARVONI AND SOLVALDI FOR GRIEVANT SERIOUS MEDICAL NEED.

Offender Signature:

Date: FEB. 21, 2018

Grievance Response:

Review of your medical records reveals that you were scheduled for Hep C clinic in August 2009 but were not seen. You were scheduled with HG XUSG for a liver ultra sound but signed a Refusal of Treatment. You were last seen in chronic care clinic for your Hepatitis C in May 2017. Your condition is being monitored and you are not being denied treatment for Hep C. However if you want to be re-referred back to the Hep C clinic you will need to be seen by the provider. You have an upcoming chronic care clinic scheduled for next month but you may submit a SCR requesting to be referred to Hep C clinic for treatment and you'll be scheduled within 72 hours. No further action warranted at this time.

Signature Authority:

Anitra Lindley
Practice Manager
UTMB/CMC

Date:

4/3/18

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

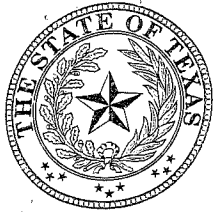
3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice
STEP 2
OFFENDER
GRIEVANCE FORM

Offender Name: ELLOYD JOHNSON TDCJ # 840854
 Unit: POLUNSKY Housing Assignment: 8-K-26-B 7I-1
 Unit where incident occurred: 10-BLDG MEDICAL SUPERVISORY STAFF

OFFICE USE ONLY

Grievance #: 2018090804
 UGI Recd Date: APR 09 2018
 HQ Recd Date: APR 16 2018
 Date Due: 5-24
 Grievance Code: 628
 Investigator ID#: I0352
 Extension Date: _____

You must attach the completed Step 1 Grievance at has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

IT DO NOT... RESPOND OR...
 ANSWER... THE REQUEST FOR: HEPATITIS C. VIRUS DRUGS: HARVONI... AND...
 SOLVALDI... WILL BE PROVIDED OR NOT...

LEGAL ANALYSIS

GRIEVANT PURSUANT TO INCOMPLIANCE TO FOLLOW IN ORDER UNDER THE SUPPORTING CASE LAW:
 (1) SEE: ABU-JAMAL V. WETZEL, U.S.D.C. (M.D. PENN.), CASE NO. 3:16-CV-02000 RDM:
 2017 U.S. DIST. LEXIS 368.
 (2) SEE: CORRIS V. KOENIGSMANN, U.S.D.C. (N.D. NY), CASE NO. 9:15-CV-01205-GTS-
 TWD.

- NOTICE -

FOR THE RECORD NO CALL HEP.C. HAVE BEEN SCHEDULED
 UPON NUMEROUS SCR FOR TREATMENT FOR DRUGS:
 HARVONI AND SOLVALDI.

THIS WILL BE SUBMITTED ACCORDINGLY

Offender Signature: _____

Date: APRIL 6, 2018

Grievance Response:

A review of the Step 1 medical grievance has been completed regarding your complaint of being denied treatment for your Hepatitis C (HCV). You stated you have requested treatment, but are being denied the medications Harvoni and Solvaldi. You asked to have these medications started.

Review of the electronic health record indicates your most recent APRI score was 0.58. This does not meet the current criteria for treatment with the medications you are requesting. The criteria also indicates ultrasounds of the liver and other tests are to be completed prior to referral to the HCV Specialty Clinic. It is noted you refused to have the required ultrasound. All patients must meet this criteria before treatment can begin. While you maintain the right to refuse any services offered, you do not have the liberty to dictate what medications, treatments, or appointments will be prescribed.

You are encouraged to work with the medical providers and staff to ensure the best possible outcome for your health care needs. Please do not refuse any medical appointments or chain outs, as this will delay your treatment options. Appellate review supports the response offered at Step 1. No further investigation is warranted for this issue.

**STEP II MEDICAL GRIEVANCE PROGRAM
OFFICE OF PROFESSIONAL STANDARDS
TDCJ HEALTH SERVICES DIVISION**

Signature Authority: _____

Date: 4/18/18

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

OFFICE OF THE CLERK

SEPT. 4, 2018

HONORABLE UNITED STATES DISTRICT COURT, EASTERN DISTRICT, DAVID A. O'TOOLE, CLK.
UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF TEXAS
104 NORTH THIRD STREET
LUFKIN, TEXAS 75901
RE: ELLYD JOHNSON V. T.D.C.J-HEALTH-SERVICES-DIVISION; ANITRA
LINDLEY; UTMB/CMC.
G.NO. 2018090804

DEAR MR. O'TOOLE:

ENCLOSED FOR FILING IS AN ORIGINAL AND ONE COPY OF PLAINTIFF'S
"CIVIL RIGHTS COMPLAINT, BY A PRISONER IN STATE CUSTODY" WITH
"APPLICATION TO PROCEED INFORMA PAUPERS."

PLEASE GIVE NOTICE UPON RECEIPT.

THANK YOU RESPECTFULLY FOR YOUR ASSISTANCE.

C/C PROVIDED UPON REQUEST
EJ

SINCERELY

PLAINTIFF - RAUPER - PRO SE

ELLOYD JOHNSON *840854

PDLUNSKY UNIT

3872 FM 350 SOUTH

LIVINGSTON, TEXAS 77351



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
OFFICE OF THE CLERK
104 NORTH THIRD STREET
LUFKIN, TEXAS 75901

PLRA